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SIPDIS

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SUBJECT: DEMOCRATIC REPUBLIC OF CONGO 2008 TRAFFICKING IN
PERSONS REPORT

REF: SECSTATE 02731

¶1. (SBU) This message contains Embassy Kinshasa's responses to questions in reftel, paragraphs 27-30, on trafficking in persons.

¶2. (SBU) Begin responses to paragraph 27.

¶A. Is the country a country of origin, transit, and/or destination for internationally trafficked men, women, or children? Yes.

Provide, where possible, numbers or estimates for each group: how they were trafficked, to where, and for what purpose.

UNICEF estimates that some 20 children cross the Congo River to Brazzaville every day to work in prostitution or street vending. In 2006, UNICEF investigators interviewed 71 Congolese children in Brazzaville who had been trafficked.

IOM estimates that more than 1,000 Congolese women remain in Uganda after being forcibly transported as sex slaves or domestics by departing Ugandan troops in 2004.

Save the Children is monitoring instances of an undetermined number of minors recruited from Uganda and Rwanda by armed groups and transported to Congo.

Does the trafficking occur within the country's borders? Yes

UNICEF estimates 60,000 boys work at informal mining sites, and an undetermined number of girls work as prostitutes outside mining sites.

UNICEF estimates that 11,500 street children (girls) work as prostitutes throughout the country. NGO Lazarius estimates 500 girls work in organized prostitute camps in Kinshasa.

Does it occur in territory outside of the government's control (e.g. in a civil war situation)?

Yes. Child soldiering continues in areas controlled by armed groups outside government control in the provinces of North Kivu, South Kivu, Katanga, and Orientale.

Are any estimates or reliable numbers available as to the extent or magnitude of the problem?

Child soldiering: UNICEF estimates 3,000 minors remain in the ranks of armed groups and over 200 in the Congolese military (FARDC).

What is (are) the source(s) of available information on

trafficking in persons or what plans are in place (if any) to undertake documentation of trafficking?

The government maintains no statistics or documentation on trafficking in persons and has no plans for doing so. The best sources of information are UNICEF, local NGOs and IOM.

How reliable are the numbers and these sources?

Numbers maintained by these sources are estimates. Their numbers appear reasonable, although those maintained by UNICEF and IOM are more reliable than those of local NGOs.

Are certain groups of persons more at risk of being trafficked (e.g. women and children, boys versus girls, certain ethnic groups, refugees, etc.)?

Children. Boys are much more likely to be trafficked for work in the mining sector and as child soldiers.

1B. Please provide a general overview of the trafficking situation in the country and any changes since the last TIP Report (e.g. changes in direction).

Child soldiering: Approximately 3,000 minors remain to be demobilized from armed groups, notably FDLR, CNDP and various Mai Mai militia. Most if not all of these groups continue to recruit minors. Recruitment may be forced, but is more often voluntary, fueled by poverty, lack of opportunity and pervasive insecurity.

Forced labor: Armed groups outside government control continue to kidnap adults and children for forced labor and sexual slavery.

Child labor: An estimated 60,000 minors work in the mining sector. The vast majority do so for economic reasons under pressure by their families.

Child prostitution: Girls who have become street children have in almost all cases been abandoned by their families. Prostitution may be the only option they have for survival.

An estimated 90 per cent of girls working in Kinshasa prostitution camps are originally from Equateur province. They are first enticed to Kinshasa by other women in their families by appeals to help with domestic chores, then coerced into prostitution soon after arrival.

Children trafficked to Brazzaville: Children are enticed to Brazzaville by promises of good money and passage to Europe.

Congolese women in Uganda: Ugandan soldiers forcibly removed these women to Uganda. Many are kept hidden in barracks.

Children recruited in Uganda and Rwanda: Children are enticed by promises of money and education. There are occasional forced abductions.

1C. Which government agencies are involved in anti-trafficking efforts and which agency, if any, has the lead?

No government agency in charge of trafficking issues per se.

The defense ministry's DDR implementation unit (UEPNDDR) is responsible for demobilizing child soldiers.

The ministry for gender, women, and children's issues has responsibility for facilitating a National Committee for Children.

The labor ministry is responsible for the National Committee to Combat Worst Forms of Child Labor.

1D. What are the limitations on the government's ability to address this problem in practice? For example, is funding for police or other institutions inadequate? Is

overall corruption a problem? Does the government lack the resources to aid victims?

Financial: The government lacks sufficient financial, technical and human resources to address not only trafficking, but even basic levels of security and services.

Military: The military is poorly trained, supplied, paid, and led, and lacks the capacity to forcibly demobilize or repatriate armed groups.

Corruption: Government officials at all levels are notoriously corrupt.

Aid to victims: The 2007 budget included no appropriations for victims of trafficking.

¶E. To what extent does the government systematically monitor its anti-trafficking efforts (on all fronts -- prosecution, victim protection, and prevention) and periodically make available, publicly or privately and directly or through regional/international organizations, its assessments of these anti-trafficking efforts?

There is no government effort to actively monitor, coordinate, or assess anti-trafficking efforts.

End responses to paragraph 27.

¶3. (SBU) Begin responses to paragraph 28:

¶28. INVESTIGATION AND PROSECUTION OF TRAFFICKERS:

For questions A-D, posts should highlight in particular whether or not the country has enacted any new legislation since the last TIP report.

¶A. Does the country have a law specifically prohibiting trafficking in persons -- both for sexual and non-sexual purposes (e.g. forced labor)? No.

If so, please specifically cite the name of the law and its date of enactment and provide the exact language of the law prohibiting TIP and all other law(s) used to prosecute TIP cases. Does the law(s) cover both internal and external (transnational) forms of trafficking? If not, under what other laws can traffickers be prosecuted? For example, are there laws against slavery or the exploitation of prostitution by means of force, fraud or coercion? Are these other laws being used in trafficking cases?

The 2006 sexual violence code, Law 6/018, enacted July 20, 2006, includes provisions against, and penalties for, trafficking in persons for sexual purposes, forced prostitution, procuring or supporting prostitution (i.e. pimping), sexual slavery, and the prostitution of minors. It applies to all relevant trafficking activities within Congolese jurisdiction.

The Constitution expressly forbids involuntary servitude. In addition, it forbids enlistment of persons less than 18 years of age in the armed forces.

Please provide a full inventory of trafficking laws, including non-criminal statutes that allow for civil penalties against alleged trafficking crimes, (e.g., civil forfeiture laws and laws against illegal debt).

In addition to those cited above, the labor code prohibits the employment of children under the age of 15, including as apprentices, unless exempted by a labor inspector.

Parliament adopted no trafficking legislation in 2007.

¶B. What are the prescribed penalties for trafficking people for sexual exploitation?

10 to 20 years in prison.

What penalties were imposed for persons convicted of sexual exploitation over the reporting period?

There were no reports on prosecutions or convictions for sexual exploitation.

Please note the number of convicted sex traffickers who received suspended sentences and the number who received only a fine as punishment.

See above.

1C. Punishment of Labor Trafficking Offenses: What are the prescribed and imposed penalties for trafficking for labor exploitation, such as forced or bonded labor and involuntary servitude? Do the government's laws provide for criminal punishment -- i.e. jail time -- for labor recruiters in labor source countries who engage in recruitment of laborers using knowingly fraudulent or deceptive offers that result in workers being trafficked in the destination country? Are there laws in destination countries punishing employers or labor agents in labor destination countries who confiscate workers' passports or travel documents, switch contracts without the worker's consent as a means to keep the worker in a state of service, or withhold payment of salaries as means of keeping the worker in a state of service? If law(s) prescribe criminal punishments for these offenses, what are the actual punishments imposed on persons convicted of these offenses? Please note the number of convicted labor traffickers who received suspended sentences and the number who received only a fine as punishment.

The government has not determined penalties for labor exploitation.

The government did not prosecute any such cases in 2007.

1D. What are the prescribed penalties for rape or forcible sexual assault?

5 to 20 years in prison, doubled in certain cases.

How do they compare to the prescribed penalties for crimes of trafficking for commercial sexual exploitation?

The minimum prescribed penalty for trafficking for commercial exploitation is 10 years in prison.

1E. Is prostitution legalized or decriminalized? No.

Specifically, are the activities of the prostitute criminalized? Yes.

Are the activities of the brothel owner/operator, clients, pimps, and enforcers criminalized? Yes.

Are these laws enforced? No.

If prostitution is legal and regulated, what is the legal minimum age for this activity? Note that in many countries

with federalist systems, prostitution laws may be under state or local jurisdiction and may differ among jurisdictions.

N/A

1F. Has the government prosecuted any cases against human trafficking offenders? If so, provide numbers of investigations, prosecutions, convictions, and sentences served, including details on plea bargains and fines, if relevant and available. Please indicate which laws were used to investigate, prosecute, convict, and sentence traffickers. Also, if possible, please disaggregate by type of TIP (labor vs. commercial sexual exploitation) and

victims (children, as defined by U.S. and international law as under 18 years of age, vs. adults).

The government did not prosecute any such cases in 2007.

Does the government in a labor source country criminally prosecute labor recruiters who recruit laborers using knowingly fraudulent or deceptive offers or impose on recruited laborers inappropriately high or illegal fees or commissions that create a debt bondage condition for the laborer?

The government did not prosecute any such cases in 2007.

Does the government in a labor destination country criminally prosecute employers or labor agents who confiscate workers' passports/travel documents, switch contracts or terms of employment without the worker's consent, use physical or sexual abuse or the threat of such abuse to keep workers in a state of service, or withhold payment of salaries as a means to keep workers in a state of service?

The government did not prosecute any such cases in 2007.

Are the traffickers serving the time sentenced? If not, why not? No, the most recent convicted trafficker escaped from jail in 2006 and has not been caught.

Please indicate whether the government can provide this information, and if not, why not?

No. The justice ministry could not provide this information because it does not specifically track trafficking issues.

1G. Does the government provide any specialized training for government officials in how to recognize, investigate, and prosecute instances of trafficking?

The government does not provide training in these areas.

Specify whether NGOs, international organizations, and/or the USG provide specialized training for host government officials.

No organizations provide specialized training in these areas for government officials.

1H. Does the government cooperate with other governments in the investigation and prosecution of trafficking cases? If possible, can post provide the number of cooperative international investigations on trafficking during the reporting period?

Per our knowledge, the government did not participate in any cooperative international investigations of trafficking.

1I. Does the government extradite persons who are charged with trafficking in other countries? If so, can post provide the number of traffickers extradited during the reporting period?

The government did not extradite any persons in 2007 for trafficking in other countries.

Does the government extradite its own nationals charged with such offenses?

Yes. In October 2007, the Congolese government transferred Germain Katanga, a former leader of the FRPI, to the International Criminal Court (ICC) on various charges of war crimes including using child soldiers and forcing women into sexual slavery.

If not, is the government prohibited by law from extraditing its own nationals? No. If so, what is the government doing to modify its laws to permit the extradition of its own nationals?

¶J. Is there evidence of government involvement in or tolerance of trafficking, on a local or institutional level? No.

If so, please explain in detail.

There is no evidence of direct government involvement in trafficking. However, lack of action against trafficking could indicate a certain level of tolerance.

¶K. If government officials are involved in trafficking, what steps has the government taken to end such participation?

N/A

Please indicate the number of government officials investigated and prosecuted for involvement in trafficking or trafficking-related corruption during the reporting period. Have any been convicted? What sentence(s) was imposed? Please specify if officials received suspended sentences, were given a fine, fired, or reassigned to another position within the government as punishment. Please provide specific numbers, if available. Please indicate the number of convicted officials that received suspended sentences or received only a fine as punishment.

The government conducted no investigations or prosecutions of any officials for trafficking in 2007.

¶L. As part of the new requirements of the 2005 TVPRA, for countries that contribute troops to international peacekeeping efforts, please indicate whether the government vigorously investigated, prosecuted, convicted and sentenced nationals of the country deployed abroad as part of a peacekeeping or other similar mission who engage in or facilitate severe forms of trafficking or who exploit victims of such trafficking.

N/A

¶M. If the country has an identified child sex tourism problem (as source or destination), how many foreign pedophiles has the government prosecuted or deported/extradited to their country of origin? What are the countries of origin for sex tourists? Do the country's child sexual abuse laws have extraterritorial coverage (similar to the U.S. PROTECT Act)? If so, how many of the country's nationals have been prosecuted and/or convicted under the extraterritorial provision(s) for traveling to other countries to engage in child sex tourism?

The DRC has not been identified as having a child sex tourism problem.

End responses to paragraph 28.

¶3. (SBU) Begin responses to paragraph 29.

PROTECTION AND ASSISTANCE TO VICTIMS:

¶A. Does the government assist foreign trafficking victims, for example, by providing temporary to permanent residency status, or other relief from deportation? No.

If so, please explain.

N/A

¶B. Does the country have victim care facilities which are accessible to trafficking victims?

Yes. There are numerous NGOs working with girls coerced into prostitution in Kinshasa, North Kivu and South Kivu provinces and the Ituri District of Orientale Province.

The defense ministry's UEPNDDR sends demobilized child

soldiers to transit centers for one to two months before they are reintegrated into civilian life. The centers, services are funded by the World Bank and implemented by NGOs.

Do foreign victims have the same access to care as domestic trafficking victims? Yes.

Does the country have specialized facilities dedicated to helping victims of trafficking? No.

If so, can post provide the number of victims placed in these care facilities during the reporting period? What is the

funding source of these facilities? Please estimate the amount the government spent (in U.S. dollar equivalent) on these specialized facilities dedicated to helping trafficking victims during the reporting period.

N/A

Does the government provide trafficking victims with access to legal, medical and psychological services? No.

If so, please specify the kind of assistance provided, and the number of victims assisted, if available. N/A

1C. Does the government provide funding or other forms of support to foreign or domestic NGOs and/or international organizations for services to trafficking victims? No.

Please explain and provide any funding amounts in U.S. dollar equivalent. If assistance provided is in-kind, please specify exact assistance. Please explain if funding for assistance comes from a federal budget or from regional or local governments. N/A

1D. Do the government's law enforcement, immigration, and social services personnel have a formal system of proactively identifying victims of trafficking among high-risk persons with whom they come in contact (e.g., foreign persons arrested for prostitution or immigration violations)? No

What is the number of victims identified during the reporting period? N/A

Has the government developed and implemented a referral process to transfer victims detained, arrested or placed in protective custody by law enforcement authorities to institutions that provide short- or long-term care?

Child soldiering: Yes. UEPNDDR identifies child soldiers at reception centers and transfers them to NGO custody.

How many victims were referred for assistance by law enforcement authorities during the reporting period?

Child soldiering: 3,653 minors went through the formal demobilization process.

1E. For countries with legalized prostitution: does the government have a mechanism for screening for trafficking victims among persons involved in the legal/regulated commercial sex trade? N/A

1F. Are the rights of victims respected?

Child soldiering: Local authorities have occasionally charged demobilized child soldiers with being members of illegal armed groups.

Are trafficking victims detained or jailed? If detained or jailed, for how long?

Child soldiering: Yes. Minors detained for child soldiering are generally released quickly if discovered by MONUC or NGOs. However, there are currently 31 children suspected of being Rwandan who have been detained without charge at the

maximum security prison in Kinshasa.

Are victims fined? No.

Are victims prosecuted for violations of other laws, such as those governing immigration or prostitution? No.

¶G. Does the government encourage victims to assist in the investigation and prosecution of trafficking? No.

How many victims assisted in the investigation and prosecution of traffickers during the reporting period? None.

May victims file civil suits or seek legal action against traffickers?

Unknown. The government has few functioning courts, making filing and trying such suits virtually impossible.

Does anyone impede victim access to such legal redress? No.

If a victim is a material witness in a court case against a former employer, is the victim permitted to obtain other employment or to leave the country pending trial proceedings?

N/A. No such cases were tried in 2007.

Are there means by which a victim may obtain restitution? No.

¶H. What kind of protection is the government able to provide for victims and witnesses? None.

Does it provide these protections in practice? No.

What type of shelter or services does the government provide? None.

Are these services provided directly by the government or are they provided by NGOs or IOs funded by host government grants?

The government provides no such services. NGOs make take up certain special cases for shelter and protection.

Does the government provide shelter or housing benefits to victims or other resources to aid the victims in rebuilding their lives? No.

Where are child victims placed (e.g., in shelters, foster care, or juvenile justice detention centers)?

Child soldiering: see above.

What is the number of victims assisted by government-funded assistance programs during the reporting period? None.

What is the number of victims assisted by non government-funded assistance programs?

Child soldiering: 3,653.

What is the number of victims that received shelter services during the reporting period? None.

¶I. Does the government provide any specialized training for government officials in identifying trafficking victims and in the provision of assistance to trafficked victims, including the special needs of trafficked children? No.

Does the government provide training on protections and assistance to its embassies and consulates in foreign countries that are destination or transit countries? No.

Does it urge those embassies and consulates to develop ongoing relationships with NGOs and IOs that serve trafficked

victims? No.

What is the number of trafficking victims assisted by the host country's embassies or consulates abroad during the reporting period? Please explain the level of assistance.

There were no reports of the government providing such assistance.

For example, did the host government provide travel documents for the victim to repatriate, did the host government contact NGOs in either the source or destination countries to ensure the victim received adequate assistance, did the host government pay for the transportation home for a victim's repatriation, etc. N/A

¶J. Does the government provide assistance, such as medical aid, shelter, or financial help, to its nationals who are repatriated as victims of trafficking? No.

¶K. Which international organizations or NGOs, if any, work with trafficking victims?

MONUC, UNICEF, IOM, BVES, Save the Children, Lazarius.

What type of services do they provide?

Services include: community re-integration, vocational training, re-enrollment in primary or secondary education, conflict resolution seminars, sexual violence counseling, psychological counseling, mediation between children and families, and medical treatment.

What sort of cooperation do they receive from local authorities?

They usually receive full cooperation.

How much funding (in U.S. dollar equivalent) did NGOs and international organizations receive from the host government for victim assistance during the reporting period? Please disaggregate funding for prevention and public awareness efforts from victim assistance funding. None.

NOTE: If post reports that a government is incapable of providing direct assistance to TIP victims, please assess whether the government ensures that TIP victims receive access to adequate care from other entities. Funding, personnel, and training constraints should be noted, if applicable. Conversely, the lack of political will in a situation where a country has adequate financial and other resources to address the problem should be noted as well.

The GDRC is lacks the political will and capacity -- including funding, training and personnel -- to make a priority of or provide direct assistance to victims of trafficking in persons. International organizations and NGOs take the initiative to locate and provide for victims.

End responses to paragraph 29.

¶4. (SBU) Begin responses to paragraph 30.

PREVENTION:

¶A. Does the government acknowledge that trafficking is a problem in the country? Yes.

If not, why not? N/A

¶B. Are there, or have there been, government-run anti-trafficking information or education campaigns conducted during the reporting period? No.

If so, briefly describe the campaign(s), including their objectives and effectiveness. Please provide the number of people reached by such awareness efforts if available. Do these campaigns target potential trafficking victims and/or

the demand for trafficking (e.g. "clients" of prostitutes or beneficiaries of forced labor)? N/A

¶C. What is the relationship between government officials, NGOs, other relevant organizations and other elements of civil society on the trafficking issue?

Positive. Government officials at all levels are receptive and willing to listen, but not willing to take the lead.

¶D. Does the government monitor immigration and emigration patterns for evidence of trafficking? No.

Do law enforcement agencies screen for potential trafficking victims along borders? No.

-- E. Is there a mechanism for coordination and communication between various agencies, internal, international, and multilateral on trafficking-related matters, such as a multi-agency working group or a task force?

Yes. There government has established a National Children,s Committee, but it lacks coordination.

Does the government have a trafficking in persons working group or single point of contact? No.

Does the government have a public corruption task force? No.

¶F. Does the government have a national plan of action to address trafficking in persons?

No. However, the government has adopted a National Action Plan for violence against children, which includes a section on exploitation.

If so, which agencies were involved in developing it?

The ministry of gender, women, and children affairs led coordination and preparation of the plan.

Were NGOs consulted in the process? Yes.

What steps has the government taken to disseminate the action plan?

It has published the plan, but done little to implement it.

G: For all posts: As part of the new criteria added to

the TVPA's minimum standards by the 2005 TVPRA, what measures has the government taken during the reporting period to reduce the demand for commercial sex acts?

No action.

End responses to paragraph 30.
CLOUD